

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

GERALD WALKER,

Plaintiff,

-against-

MICHAEL CAPRA, Superintendent Sing Sing C.F.; DSS THORPE, Sing Sing C.F.; SORC MANUEL; VELEZ, Deputy Supt. of Programs, Sing Sing C.F.; COMMISSIONER ANTHONY ANNUCCI (DOCCS); LT. BOSCH, Disciplinary; DSA A. HELMS; Q. QUICK, IGPS; A. RODRIGUEZ, Director SHU; Y. CHEVEREZ; FSA STASKO; GRANT-HILL Correctional Officer,

Defendants.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
DOCCS
DISCIPLINARY
CODE
UPSTATE FACILITY
1-19-23

22-CV-7638 (VB)

ORDER OF SERVICE

VINCENT L. BRICCETTI, United States District Judge:

Plaintiff, who is incarcerated at Upstate Correctional Facility, is proceeding *pro se* and *in forma pauperis* (IFP). Plaintiff filed this complaint, under 42 U.S.C. § 1983, alleging that Defendants violated his constitutional rights. By order dated October 24, 2022, the Court directed Plaintiff to amend his complaint to address deficiencies in his original pleading. Plaintiff filed an amended complaint on January 3, 2023, and the Court has reviewed it.

DISCUSSION

A. Service on Named Defendants

Because Plaintiff has been granted permission to proceed IFP, he is entitled to rely on the Court and the U.S. Marshals Service to effect service.¹ *Walker v. Schult*, 717 F.3d. 119, 123 n.6

¹ Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that a summons be served within 90 days of the date the complaint is filed, Plaintiff is proceeding IFP and could not have served the summonses and amended complaint until the Court reviewed the amended complaint and ordered that summonses be issued. The Court therefore extends the time to serve until 90 days after the date summonses are issued.

(2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) (“The officers of the court shall issue and serve all process . . . in [IFP] cases.”); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP)).

To allow Plaintiff to effect service through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form (USM-285 form) for Defendants Bosch; Thorpe; Helms; Quick; Stasko; Manuel; Cheverez; Grant Hill; Commissioner Anthony Annucci; Sing Sing Correctional Facility Superintendent Michael Capra; Deputy Superintendent of Programs Velez; and Special Housing Unit Director A. Rodriguez. The Clerk of Court is further instructed to issue summonses and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon Defendants.

If the amended complaint is not served within 90 days after the date the summonses are issued, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff’s responsibility to request an extension of time for service).

Plaintiff must notify the Court in writing if his address changes, and the Court may dismiss the action if Plaintiff fails to do so.

B. Automatic Discovery

Local Civil Rule 33.2, which requires defendants in certain types of prisoner cases to respond to specific, court-ordered discovery requests, applies to this action. Those discovery requests are available on the Court’s website under “Forms” and are titled “Plaintiff’s Local Civil Rule 33.2 Interrogatories and Requests for Production of Documents.” Within 120 days of

service of the complaint, Defendants must serve responses to these standard discovery requests. In their responses, Defendants must quote each request verbatim.²

CONCLUSION

The Clerk of Court is instructed to (1) issue summonses for Defendants Bosch; Thorpe; Helms; Quick; Stasko; Manuel; Cheverez; Grant Hill; Commissioner Anthony Annucci; Sing Sing Correctional Facility Superintendent Michael Capra; Deputy Superintendent of Programs Velez; and Special Housing Unit Director A. Rodriguez; (2) complete the USM-285 forms with the addresses for these defendants; and (3) deliver to the U.S. Marshals Service all documents necessary to effect service of the amended complaint.

Local Civil Rule 33.2 applies to this action.

The Clerk is further directed to mail a copy of this Order to plaintiff at the address on the docket.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

SO ORDERED.

Dated: January 18, 2023
White Plains, New York



VINCENT L. BRICCETTI
United States District Judge

² If Plaintiff would like copies of these discovery requests before receiving the responses and does not have access to the website, Plaintiff may request them from the *Pro Se* Intake Unit.

DEFENDANTS AND SERVICE ADDRESSES

1. Michael Capra, Superintendent
Sing Sing Correctional Facility
354 Hunter Street
Ossining, NY 10562
2. Anthony Annucci, Commissioner
DOCCS
Bldg 2., State Campus
Albany, New York 12226-2050
3. Deputy Superintendent of Programs Velez
Sing Sing Correctional Facility
354 Hunter Street
Ossining, NY 10562
4. A. Rodriguez, Special Housing Unit Director
Sing Sing Correctional Facility
354 Hunter Street
Ossining, NY 10562
5. Lieutenant Bosch
Sing Sing Correctional Facility
354 Hunter Street
Ossining, NY 10562
6. DSS Thorpe
Sing Sing Correctional Facility
354 Hunter Street
Ossining, NY 10562
7. A. Helms, DSA
Sing Sing Correctional Facility
354 Hunter Street
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8. Q. Quick, IGPS
Sing Sing Correctional Facility
354 Hunter Street
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9. FSA Stasko
Sing Sing Correctional Facility
354 Hunter Street
Ossining, NY 10562

10. SORC Manuel
Sing Sing Correctional Facility
354 Hunter Street
Ossining, NY 10562
11. Y. Cheverez, FOIL Officer
Sing Sing Correctional Facility
354 Hunter Street
Ossining, NY 10562
12. Correction Officer Grant Hill
Sing Sing Correctional Facility
354 Hunter Street
Ossining, NY 10562